

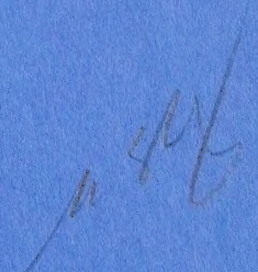
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FINAL ENVIRONMENTAL IMPACT
REPORT

EMERYVILLE MARINA BAY FILL

City of Emeryville, California


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2. Description of the Project

3. Environmental Setting

4. Environmental Impacts

5. Mitigation Measures

6. California State Environmental

7. California State Water Resources

8. San Francisco Bay Area

9. Other

EMERYVILLE MARINA BAY FILL

FINAL ENVIRONMENTAL IMPACT REPORT

CITY OF EMERYVILLE

MARCH 1977

October 24, 1976

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II. DISTRIBUTION LIST

U. S. Army Corps of Engineers, San Francisco District
U. S. Coast Guard
U. S. Environmental Protection Agency, Region IX
California State Office of Intergovernmental Management
Regional Water Quality Control Board, San Francisco Region
San Francisco Bay Conservation and Development Commission
Association of Bay Area Governments
Save San Francisco Bay Association
Sierra Club

I. INTRODUCTION

Public review and consultation is an essential part of the environmental impact assessment process.

Section III of this addendum contains responses to comments received during the public review period following publication of the Draft EIR on September 27, 1976. As announced in the Oakland Tribune on February 1, 1977, the deadline for receiving written comments on the Draft EIR was March 2, 1977.

Four letters were received and are reproduced in Section II.

Since the decision to prepare an Environmental Impact Report on the Emeryville Marina Fill was made, the City has undertaken a thorough review of the planning for the outer Emeryville peninsula, Marina, and trust tidelands area. As a result, the current plan, which is the basis for the current BCDC application, reflects an addition of only 100 berths, expands the open space-play-picnic area, revises parking spaces downward, and in general proposes less intensive use of the area than is indicated in the Draft EIR. The City's responses to the letters reflect the revised plan, where appropriate.

This addendum with the Draft EIR constitutes a Final EIR.



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS
211 MAIN STREET
SAN FRANCISCO, CALIFORNIA 94105

CITY CLERK
EMERYVILLE, CALIF.
OCT 13 9 46 AM '76

SPNED-E

8 October 1976

Mr. Edward G. Wohlenberg
City Manager
City Hall
2449 Powell Street
Emeryville, CA 94608

Dear Mr. Wohlenberg:

Reference is made to your letter of 27 September 1976 forwarding the Draft EIR on the Emeryville Marina Bay Fill.

The proposed activity does not appear to conflict with any current or anticipated projects, plans, or studies of this District. This office appreciates the opportunity to review your report and we have no further comment at this time.

Sincerely yours,

R. C. RIDDLE

Acting Chief, Engineering Division



III. WRITTEN COMMENTS

E.C. Fulton
Director
Office of Planning and Research
State of California

Memorandum

To : L. Frank Goodson, Projects Coordinator
Resources Agency
1416 Ninth Street
Sacramento, California 95814

City of Emeryville
2449 Powell Street
Emeryville, California 94608

Date: October 28, 1976

From : Department of Fish and Game

Subject: Emeryville Marina Bay Fill, SCH 76100656

The Department of Fish and Game has reviewed subject report and finds it generally adequate in its discussion of fish and wildlife resources and impacts.

We recommend implementation of alternative B3 as stated on pages 25 and 26 of the draft EIR. Restoration of marshland is the most suitable alternative to replace habitat lost to wildlife from the unauthorized bay fill.

E.C. Fullerton
Director



State of California

GOVERNOR'S OFFICE

OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET

SACRAMENTO 95814

EDMUND G. BROWN JR.
GOVERNOR

November 22, 1976

Mr. Edward Wohlenberg
2449 Powell Street
Emeryville, Ca. 94608

SUBJECT: SCH# 76100656 - Emeryville Marina Bay Fill

Dear Mr. Wohlenberg;

In a letter to you dated November 3, 1976, the State Clearinghouse verified your compliance with the review procedures contained in the State Guidelines for Implementation of the California Environmental Quality Act. The attached comment was sent to the Clearinghouse at a later date. You are not required to respond to it.

Sincerely,

William G. Kirkham
Division Chief
State Clearinghouse

WGK/so
Attachment
cc: E. C. Fullerton
Department of Fish and Game

Mary Schell
State Library

CITY CLERK
EMERYVILLE, CALIF.
DEC 8 9 44 AM '76

The sentence starting in the middle of the third line on page 7 is misleading. We suggest the following language be substituted: "It can be seen that the drawing shows that some existing parking areas and a portion of the bait shop site, uses authorized by BCDC Permit No. 1-70, are partly in the area shown as containing unauthorized fill. These uses do not require further BCDC approval if they are placed on authorized fill. If they are to be located as shown on the drawing, BCDC authorization of all or a portion of the excess fill would be needed."

3. Relationship to Local and Regional Plans. This section should include discussions of the plans of the Department of Navigation and Ocean Development and adjacent East Bay cities as they affect marina development at Emeryville and in the East Bay. For example, information about requests for loans for marina development in Richmond and Albany that the Department of Navigation and Ocean Development is considering should be included. There should also be information about the total number of existing and proposed berths in the East Bay. The reader could then better understand the extent of existing and likely future marina development in the East Bay. There should be a brief discussion on the consistency of the marina fill and uses with the Regional Water Quality Control Board's basin plan. The report should briefly discuss the legislative grant and the uses envisioned by the grant as it affects the Marina.

The last parenthetical statement on page 9 of the report may be misworded. We suggest the word "allows" be substituted for the word "permits."

4. Environmental Setting

a. Physical Environment. The discussion in paragraph 3 on page 10 of the report should be clarified and amplified. First, the tidal prism figure must be a transposition and should read 1,250,000. Secondly, the present area of San Francisco Bay should be compared to the approximate area that existed in the 1850's so the reader can gain perspective on the amount of Bay surface area lost due to man's activities.

The statement on the last two lines of page 11 should be rewritten to state that the Marina peninsula, as opposed to the Marina, is composed of construction dirt and rubble placed in water at depths of up to 30 feet underlain by up to 30 feet of soft Bay mud. This helps the reader distinguish between the earth fill placed for the peninsula and the Marina basin which consists of pile-supported fill and water.

b. Socioeconomic Environment. If the information about the fiscal constraints of the City is to be included, some information about the fiscal resources of the City should also be added for perspective. Such information should include, but not be limited to: (1) the total 1974 and 1975 tax income to the City, including a separate reference for property tax income; (2) the total assessed value of lands in the City, including a separate reference for industrial land, and the tax rate applied to those lands in 1974 and 1975; (3)

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

30 VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA 94102
PHONE: 557-3686

October 25, 1976

City of Emeryville
City Hall
Emeryville, California 94608ATTENTION: Ed Wohlenberg
City ManagerSUBJECT: Commission Comments on the Emeryville Marina Bay Fill Environmental
Impact Report; BCDC Permit File No. 1-70
SCH No. 76100656

Gentlemen:

The Commission has reviewed the draft Environmental Impact Report (EIR) entitled "Emeryville Marina Bay Fill," dated September, 1976, which concerns fill which the staff believes has been placed in excess of that authorized by BCDC Permit No. 1-70. The Commission has the following comments:

1. "Grandfather" Clause Discussion. The discussion on page 4 of the draft EIR should indicate that the Supreme Court ruled, in San Francisco Bay Conservation and Development Commission v. Emeryville, that the City did not have a "grandfathered" fill project pursuant to Section 66632.1 of the Government Code; thus any further filling on Emeryville tide and submerged lands would require a BCDC permit, including the Marina peninsula fill.

The reference to Section 66660 of the Government Code should be corrected to read Section 66660.1 which is the section that created a "shoreline band" exemption for all areas within 100 feet inland of the line of highest tidal action at areas filled at Emeryville prior to 1969. It should also be pointed out that the exemption is limited to construction within the shoreline and does not exempt fill or dredging projects from BCDC permit requirements.

2. Discussion of Project. The discussion on page 6 of the report is somewhat misleading. The work "authorization" in the last sentence of the fourth paragraph should be changed to "request" so that the reader understands that the City intends to request a BCDC authorization for the excess fill, but that the Commission may or may not grant such a request.


City of Emeryville
October 25, 1976
Page Four

d. Shoreline Acquisition. The last paragraph on page 26 under this heading is not clear. It could mean that the City would require public access as part of any new development elsewhere on the Bay in the City of Emeryville. With the possible exception of the Ashby Causeway, we are unaware of any vacant land area large enough to support any substantial development in Emeryville without further fill. If the sentence means that the City would approve a private development involving further fill in the Bay, the statement should state that fact. If the City is indicating that it would acquire property interests on existing land areas and then develop public access and public use areas, that statement should be made.

We hope these comments will help the City prepare a final report that fully complies with the requirements of the California Environmental Quality Act of 1970 and the Secretary for Resources Guidelines.

Very truly yours,

FOR THE BAY COMMISSION

By: 
CHARLES R. ROBERTS
Executive Director

CRR/mm

cc: E. Clement Shute, Assistant Attorney General
Resources Agency, Attention: L. Frank Goodson
Environmental Impact Planning Corporation, Attention: Philip Williams

a comparison of both the assessed valuation and tax rate of industrial lands in Emeryville to the valuation and tax rate applied by the neighboring cities of Oakland and Berkeley; and (4) the total projected income and expenses from the Marina and associated operations that would likely occur if all presently City-approved uses became operational.

5. Environmental Impacts-Socioeconomic Environment. We disagree with the first sentence on page 18 under this heading to the effect that authorization of the fill in itself would have few socioeconomic impacts. One very serious social impact of authorizing after-the-fact placement of fill is the incentive such actions give to others to place fill without required approvals or public review. If the effect of placing fill without the necessary approvals is merely the issuance of a retroactive permit, then there is little incentive for any other agency or person to follow the requirements of the McAteer-Petris Act or, for that matter, any other regulation or procedure. Thus, this section should address the strong public policy that all agencies and persons satisfy legal and regulatory requirements and that sanctions be imposed when violations occur. While punishment is not always the best solution to a complex problem, certainly any governmental action that weakens a regulatory system is not in the public interest.

6. Alternatives

a. Cost to City Problem. Many of the alternatives discussed include a statement that they would cost the City additional money and cause either a reduction in services or an increase in taxes. While this statement may be correct, it should also be stated that the cheapest solution from the City's financial standpoint may not provide either adequate public benefits or represent sound public policy.

b. Utilize Fill for Public Use. The third sentence on page 24 under this heading is misleading. We suggest the following sentence be substituted: "The public uses would be developed by the City of Emeryville under the guidance and review of the Commission." This section should also indicate the amount of area required to be devoted to landscaping and public access uses under Permit No. 1-70 in comparison to the amount of area that would be devoted to such purposes if the public use alternative were selected.

c. Restoration of Marshland. In our experience, areas suitable for restoration to tidal action or marsh are usually not valuable agricultural areas due to their low elevation and high soil salinity. Therefore, we suggest that the final report contain further justification for the statement on page 26 that there may be a loss of productive agricultural land due to restoration. We also suggest that some range of cost be included. Such information can be obtained from the Golden Gate Bridge, Highway and Transportation District and from CalTrans. Both agencies have had recent experience with appraising lands in the Bay Area suitable for restoration to tidal marsh.

Page 10, paragraph 3: The description of San Francisco Bay should include its original size of approximately 780 square miles.

Page 11, last paragraph: The marina peninsula is constructed differently than the marina hook and this difference should be discussed.

Page 13: Under Socio-Economic Environment, there should be some explanation of the difference in today's city composition and assessed evaluation as compared with the 1970 census. We believe it is very important to give 1975-76 tax information for the adjacent cities of Oakland and Berkeley.

Page 14: The last two lines are confusing. When is the first repayment of the marina loan due? If the loan is to be mentioned here, it should be described more adequately.

Page 15: The first paragraph should include the statement that a public agency supported by tax funds has been required to commit time and money on this problem due to the unauthorized fill.

Page 15: The second paragraph does not include the application to DNOD for large marinas at Albany and Richmond and expansion of the existing marina in Oakland, which might affect the public need.

Page 17: No mention is made of hydrology and sedimentation in the section on the Physical Environment.

Page 18: Under the Socio-Economic Environment, we disagree that there is increase in public use of the marina and access to the Bay due to the unauthorized fill.

Page 18, 21 and elsewhere: The report talks about the loss of parking areas if fill removal were to occur. It should be stressed that parking is not a favored use of fill.

Page 18: Adverse sociological impacts are significant. The precedent of placing the unauthorized fill has the potential of affecting the credibility in the effectiveness of the regulatory agency - BCDC. It can discourage future taxpayers support. The taxpayer can also expect to pay for additional enforcement staff at the regional level which should be and has been a local responsibility.

Page 19: The planned expansion of the marina does not need to take place on the marina hook and is not contingent on the unauthorized fill since there are other sites within the marina area.

Page 20: Mention should be made of the beneficial impact of requiring the removal of unauthorized fill. This deterrent would provide a major incentive to obey the McAteer-Petris Act.

CITY CLERK
EMERYVILLE, CA *Save San Francisco Bay Association*

Nov 2 3 39 PM '76

Berkeley, California 94701 • (415) 849-3053 • 848-2078

October 29, 1976

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Mr. Edward G. Wohlenberg
City Manager
City of Emeryville
2449 Powell Street
Emeryville, CA. 94608

Dear Mr. Wohlenberg:

The Save San Francisco Bay Association has the following comments on the Draft Environmental Impact Report for the Emeryville Marina Bay Fill:

Page 1: The first alternative is stated in a misleading manner. "Specified public uses" are not specified (in fact it is stated on page 24 that "they will be developed mutually by the city and BCDC").

Page 2: This table is misleading and incomplete and should reflect the points raised below.

Page 4, line 16: "deeded" would be more accurately expressed as "granted."

Page 4, lines 20-25: This is inaccurate (see Appendix A, page 2). The first application was for 300-520 berths and 12.3 acres of fill, and should be shown as such. There should be reference here to Appendix A, page 2.

Page 7, top 8 lines: The future uses of the unauthorized fill should be presented in detail, or this discussion deleted. The vague references to a fishing pier and associated parking are inadequate. If the fishing pier is to be mentioned, its history before BCDC should be given and the need, cost, etc. should be discussed.

Page 8, first paragraph: The date of the city's General Plan and the relationship with the new redevelopment plan are not mentioned in this section.

Page 9: Inadequate information is presented on the city's plans for marina expansion. The sources, dates, uses and conditions of each loan should be spelled out. Does the loan require that additional berths be connected to the marina hook, and not located elsewhere in the general marina area?

Page 9: The last paragraph should be omitted since it is a discussion of an alternative action rather than a description of local and regional plans.

IV. RESPONSES TO COMMENTS

A. BAY CONSERVATION AND DEVELOPMENT COMMISSION, OCTOBER 25, 1976

Comment 1: The discussion on page 4 should indicate that the Supreme Court ruled, in San Francisco Bay Conservation and Development Commission v. Emeryville, that the City did not have a "grandfathered" fill project pursuant to Section 66632.1 of the Government Code; thus any further filling on Emeryville tide and submerged lands would require a BCDC permit, including the Marina peninsula fill.

The reference to Section 66660 of the Government Code should be corrected to read Section 66660.1 which is the section that created a "shoreline band" exemption for all areas within 100 feet inland of the line of highest tidal action at areas filled at Emeryville prior to 1969. It should also be pointed out that the exemption is limited to construction within the shoreline and does not exempt fill or dredging projects from BCDC permit requirements.

Response 1: Agreed.

Comment 2: The discussion on page 6 of the report is somewhat misleading. The word "authorization" in the last sentence of the fourth paragraph should be changed to "request" so that the reader understands that the City intends to request a BCDC authorization for the excess fill, but that the Commission may or may not grant such a request.

The sentence starting in the middle of the third line on page 7 is misleading. We suggest the following language be substituted: "It can be seen that the drawing shows that some existing parking areas and a portion of the bait shop site, uses authorized by BCDC Permit No. 1-70, are partly in the area shown as containing unauthorized fill. These uses do not require further BCDC approval if they are placed on authorized fill. If they are to be located as shown on the drawing, BCDC authorization of all or a portion of the excess fill would be needed."

Page 21, second paragraph: The loss of current recreational uses on the marina hook during fill removal would be minimal since public improvements have not been made.

Page 21, last paragraph: The source of the estimated costs needs to be given.

Page 22, first paragraph: Is the utility corridor on unauthorized fill?

Page 22, second paragraph: The ability to pay is not adequately discussed, particularly in terms of potentially available amortized loans, non-tax funds and existing tax rates in adjacent cities.

Page 23, top paragraph: The inability to expand the marina does not necessarily have an adverse impact on general recreation in the East Bay.

Pages 23, 25 and elsewhere: The report comments that if the fill must be removed, then the city would have to cut back its services. There should be demonstration of this comment and a discussion of where the cutbacks would occur.

Page 24, after line 2: The secondary adverse socio-economic impact of great significance is the disregard of BCDC permit requirements.

Page 24: The section on utilizing the fill for public use is so conceptual that it is of no value. For 7 years the city has had a permit requiring a public boat launching ramp and landscaped areas for public use. These have never been developed and this information should be included at this point. Also, to be viable, an alternative should include a precise statement of public uses and their costs.

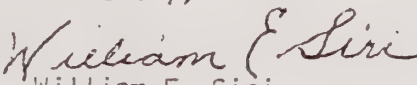
Page 25: At the end of Section 2, a statement ought to be made that there would be a positive socio-economic impact related to the mitigation required because of this unauthorized fill.

Page 26: Section 4 should be re-written, recognizing the existence of an important wildlife habitat at the Emeryville Crescent within the Emeryville city limits. This wildlife refuge is on the priority list of both the BCDC and the East Bay Regional Park District. The use of the word "recreational" in the second sentence is misleading.

Page 26: The last paragraph should be omitted since it is not spelled out as a viable alternative.

Page 28: The growth-inducing impacts are inadequately discussed in terms of traffic, noise, air pollution, public use and facilities needed. Authorization of this fill could have the precedent-setting effect of increasing unauthorized fills in other parts of the Bay.

Sincerely,


William E. Siri
President

Navigation and Ocean Development for a loan for the first phase of a 500-berth marina development. Oakland is in the final stages of permit approval for the replacement of 360 existing berths and the addition of 70 new ones. Albany's application for a loan for a 500-berth marina has been rejected because of uncertainties over environmental and jurisdictional requirements.

Existing and proposed East Bay marina berths are summarized below:

	<u>Existing</u>	<u>Proposed Additions</u>
Richmond	0	500
Albany	0	500
Berkeley	950	0
Emeryville	300	200
Oakland	360	70
San Leandro	<u>500</u>	<u>0</u>
	2,110	1,270

A Department of Navigation and Ocean Development study¹ projected supply and demand for berths for the whole Bay Area as:

	<u>Supply</u>	<u>Demand</u>
1970	16,500	17,800
1980	23,000	26,500

The Regional Water Quality Control Board has regulatory authority over any action that affects water quality in the Bay. Although there are no specific provisions in the Basin Plan relating to placement of fill, any such action that reduces water surface area and tidal action runs contrary to policies established by the Board to protect the Bay's water quality.

The land on which the marina hook has been placed was part of an area granted to the town by the State Legislature in 1919 for developing a boat harbor. In 1959, permissible uses for this grant land were expanded by the legislature to include recreational, residential, and industrial purposes "in which there is a general statewide interest." Subsequent dispute over whether these uses constituted a statewide interest led

¹A. Young & Company, Boating resources development planning study, prepared for the California Department of Navigation and Ocean Development, 1973.

Response 2: See Response 7. The proposed word change on page 6 to "request" is appropriate, but it is more accurate to indicate that the City's current application for Amendment 8 to BCDC Permit 1-70 is for approval of numerous Marina recreation and public use/access facilities on the total fill in place in the trust tidelands area.

It is suggested change on page 7 would be more accurate as follows: "It can be seen from the drawing that most of the landscaped open space picnic/play area, the fishing platform, a large portion of the shoreline trail system, two public restrooms, the viewing platform, a very small portion of the parking spaces, and a small portion of the bait shop restaurant, uses all authorized by BCDC Permit 1-70, are in the area outside the indicated authorized fill line." Refer to Responses 7 and 17 to Save San Francisco Bay Association for more relevant data.

While placement of the facilities approved by Permit 1-70 inside the authorized fill line does not require further BCDC approval, it would create an unfortunate and unaesthetic use of the fill. For these reasons, to implement best the policies and Plan of BCDC, the City is requesting approval of these facilities as shown on the fill that is in place.

Comment 3: The section Relationship to Local and Regional Plans should include discussions of the plans of the Department of Navigation and Ocean Development and adjacent East Bay cities as they affect marina development at Emeryville and in the East Bay. Information about requests for loans for marina development in Richmond and Albany that the Department of Navigation and Ocean Development is considering should be included. There should also be information about the total number of existing and proposed berths in the East Bay. There should be a brief discussion on the consistency of the marina fill and uses with the Regional Water Quality Control Board's basin plan. The report should briefly discuss the legislative grant and the uses envisioned by the grant as it affects the Marina.

The last parenthetical statement on page 9 of the report may be misworded. We suggest the word "allows" be substituted for the word "permits."

Response 3: There are current marina expansion plans in the East Bay at Richmond, Albany, and Oakland, as well as Emeryville. Richmond has an application pending to the Department of

separate reference for property tax income; (2) the total assessed value of lands in the City, including a separate reference for industrial land, and the tax rate applied to those lands in 1974 and 1975; (3) a comparison of both the assessed valuation and tax rate of industrial lands in Emeryville to the valuation and tax rate applied by the neighboring cities of Oakland and Berkeley; and (4) the total projected income and expenses from the Marina and associated operations that would likely occur if all presently City-approved uses became operational.

Response 4b: See Responses 11, 24, and 26 to Save San Francisco Bay Association.

In addition, the source and magnitude of City revenue is relevant only when viewed against the City's commitments for programs and services. If policy commitments have been made for municipal services and programs that equal or exceed current revenues, the source and amounts of revenues are of little significance, other than to the local taxpayers and City Council.

In response to Comment (1), total "tax" income to the City was \$1,619,493 in 1974/75 and \$1,755,094 in 1975/76. Property taxes were \$541,398 of the total in 1974/75 and \$750,529 of the total in 1975/76. Comment (2) assessed valuation of the City was \$71,044,012 in 1974/75 and \$84,548,930 in 1975/76; the total tax rate in 1974/75 was \$8.99/\$100 valuation and \$9.732 in 1975/76. Comment (3) see Responses 11 and 26 to Save San Francisco Bay Association. Comment (4) projected income from the Marina is estimated at approximately \$308,000 annually within a couple of years. This income is the minimum necessary to keep up with the substantial indebtedness for public facilities and berths and to meet needed maintenance and operating costs.

Comment 5: We disagree with the first sentence on page 18 under this heading to the effect that authorization of the fill in itself would have few socioeconomic impacts. One very serious social impact of authorizing after-the-fact placement of fill is the incentive such actions give to others to place fill without required approvals of public review. If the effect of placing fill without the necessary approvals is merely the issuance of a retroactive permit, then there is little incentive for any other agency or person to follow the requirements of the McAteer-Petris Act or, for that matter, any other regulation or procedure. Thus, this section should address the strong public policy that all agencies and persons satisfy legal and regulatory requirements and that sanctions be imposed when violations occur. While punishment is not always the best solution to a complex problem, certainly any governmental action that weakens a regulatory system is not in the public interest.

to law suits that were finally resolved in an amended grant of 1968 that restricted permissible uses to recreational activities.

The last statement on page 9 should be amended to read "(provided BCDC allows use of the unauthorized fill for this purpose)."

Comment 4a: The discussion in paragraph 3 on page 10 of the report should be clarified and amplified. First, the tidal prism figure must be a transposition and should read 1,250,000. Secondly, the present area of San Francisco Bay should be compared to the approximate area that existed in the 1850s so the reader can gain perspective on the amount of Bay surface area lost due to man's activities.

The statement on the last two lines of page 11 should be rewritten to state that the Marina peninsula, as opposed to the Marina, is composed of construction dirt and rubble placed in water at depths of up to 30 feet underlain by up to 30 feet of soft Bay mud. This helps the reader distinguish between the earth fill placed for the peninsula and the Marina basin which consists of pile-supported fill and water.

Response 4a: The text is in error and should read 1.25 million acre-feet, not 125 million.

In the 1850s, San Francisco Bay had an open water surface area of 476 square miles and tide marsh area of 313 square miles, total surface area of 789 square miles. Now the open water surface area is 423 square miles (a reduction of 11 percent) and the tide marsh area is 125 square miles (a reduction of 60 percent), with an additional 63 square miles of salt ponds, a total of 611 square miles."

The last sentence on page 11 should be changed to conform with the above comment.

Comment 4b: If the information about the fiscal constraints of the City is to be included, some information about the fiscal resources of the City should also be added for perspective. Such information should include, but not be limited to: (1) the total 1974 and 1975 tax income to the City, including a

¹D.R. Nichols, and N.A. Wright, Preliminary map of historic margins of marshland, San Francisco Bay. U.S. Geological Survey, San Francisco Bay Regional Environment and Resources Planning Study, Basic Data Contribution 9, Menlo Park, 1971.

Comment 6c: In our experience, areas suitable for restoration to tidal action or marsh are usually not valuable agricultural areas due to their low elevation and high soil salinity. We suggest that the final report contain further justification for the statement on page 26 that there may be a loss of productive agricultural land due to restoration. We also suggest that some range of cost be included. Such information can be obtained from the Golden Gate Bridge, Highway and Transportation District, and from CalTrans. Both agencies have had recent experience with appraising lands in the Bay Area suitable for restoration to tidal marsh.

Response 6c: The location of lands suitable for restoring to tidal action has not been investigated. If these lands were adjacent to San Pablo Bay, they could be fields now used for agriculture. There are many other suitable diked-off areas that are not now used for any purpose. Assessing prices for such land is extremely difficult since few land sales have been made in the past ten years. One transaction that may be an example of market values was the purchase by the City of Hayward of Fluor Corporation land for prices that ranged from \$75 to \$2,000 an acre for tideland and diked-off land. The U.S. Fish & Wildlife Service has surveyed prices for duck clubs in the Suisun Marsh area; these are in the region of \$400 to \$500 an acre. CalTrans recently investigated values of parcels in the South Bay and found prices ranging from \$300 to \$3,000 an acre.

Comment 6d: The last paragraph on page 26 is not clear. It could mean that the City would require public access as part of any new development elsewhere on the Bay in the City of Emeryville. With the possible exception of the Ashby Causeway, we are unaware of any vacant land area large enough to support any substantial development in Emeryville without further fill. If the sentence means that the City would approve a private development involving further fill in the Bay, the statement should state that fact. If the City is indicating that it would acquire property interests on existing land areas and then develop public access and public use areas, the statement should be made.

Response 6d: See Response 31 to Save San Francisco Bay Association.

solution to a complex problem, certainly any governmental action that weakens a regulatory system is not in the public interest.

Response 5: See Response 18 to Save San Francisco Bay Association.

Comment 6a: Many of the alternatives discussed include a statement that they would cost the City additional money and cause either a reduction in services or an increase in taxes. While this statement may be correct, it should also be stated that the cheapest solution from the City's financial standpoint may not provide either adequate public benefits or represent sound public policy.

Response 6a: See Responses 11, 24, and 26 to Save San Francisco Bay Association. It is agreed that the cheapest solution from the City's financial standpoint may either provide adequate public benefits or represent sound public policy. It is also important that any money spent be spent in a way that represents sound public policy. If the City is to expend a large sum of money, it would appear to serve public interest best if spent on improvements to the trust tidelands fill to make it useful and attractive and to maximize public use while generating funds to pay for the improvements.

Comment 6b: The third sentence on page 24 is misleading. We suggest the following sentence be substituted: "The public uses would be developed by the City of Emeryville under the guidance and review of the Commission." This section should also indicate the amount of area required to be devoted to landscaping and public access uses under Permit No. 1-70 in comparison to the amount of area that would be devoted to such purposes if the public use alternative were selected.

Response 6b: The proposed change of wording is appropriate. Under Permit 1-70, 3.7 acres were to be devoted to "public plaza and landscaped walkways." Under the current plan, more than five acres are devoted to open space, green area, and play/picnic area, together with more than 4,200 linear feet of shoreline. It should be noted, however, that if the other authorized uses in 1-70 were installed, there would be no way to provide 3.7 acres of public area landscaping (see Response 17 to Save San Francisco Bay Association).

linear feet of scenic shoreline in the trust tidelands. A dual-ramp boat-launching ramp with parking for 50 vehicles and trailers or 100 autos will also be developed, together with an 880-foot fishing platform on the existing break-water--a high community and BCDC priority.

Paved parking areas for 398 cars will be developed as compared to the previously approved 365 spaces. For the occasional high-demand days, an additional 67 spaces on turf block will be available by controlled access. Two more rest-rooms will be provided for public use and convenience. Extension of A.C. Transit service to the area is also planned.

The proposed plan is shown in Attachment 1.

Comment 6: Page 8, first paragraph: The date of the City's General Plan and the relationship of the new redevelopment plan need to be discussed.

Response 6: The City's General Plan was adopted in 1974. While the General Plan indicates the entire Marina area as an "action area," it also points out that the trust tidelands area is to be limited to additional boat slips and related commercial facilities to serve Marina users. Such uses are consistent with the General Plan and the San Francisco Bay Conservation and Development Commission Bay Plan.

In 1976, the City adopted Emeryville Redevelopment Plan No. 1, which includes about half of the Emeryville peninsula. The existing peninsula residential community and the trust tidelands area are not included in the Redevelopment Plan. Within the project area boundaries, though, additional transportation and public access are contemplated, together with open space and park facilities. Additional commercial and/or residential uses compatible with the Plan and its objectives are also allowed in the Redevelopment Plan, though again, not in the trust tidelands area.

Comment 7: Inadequate information is presented on the city's plans for marina expansion. The sources, dates, uses and conditions of each loan should be spelled out. Does the loan require that additional berths be connected to the marina hook, and not located elsewhere in the general marina area?

B. SAVE SAN FRANCISCO BAY ASSOCIATION, OCTOBER 29, 1976

Comment 1: "Specified public uses" in alternate 1, page 1, are not specified.

Response 1: See Response to Comment 5.

Comment 2: The table on page 2 is misleading and incomplete and should reflect the points raised below.

Response 2: Changes in the information contained in the Summary table are reflected in responses to the following comments.

Comment 3: Page 3, line 16: "deeded" should be more accurately expressed as "granted."

Response 3: Agreed.

Comment 4: The last paragraph on page 4 is inaccurate.

Response 4: The last paragraph on page 4 should be amended to read "... filed an application for a BCDC permit to authorize a 300- to 520-berth marina with an associated breakwater and parking, requiring a total of 5.3 acres of fill, a marina-oriented restaurant/shop, and parking requiring 7.0 acres of fill (see page 2, Appendix A).

Comment 5: The future uses of the unauthorized fill should be presented in detail, or this discussion deleted. The vague references to a fishing pier and associated parking are inadequate. If the fishing pier is to be mentioned, its history before BCDC should be given and the need, cost, etc., should be discussed.

Response 5: Emeryville now proposes the addition of only 100 more boat berths (previously 200) in the trust tidelands area, for a total, when completed, of 374 berths. In addition, extensive public use and access facilities would be developed, providing more than five acres of landscaped open space with picnic and play areas, walkways, bikeways, and more than 4,200

Comment 11: There should be some explanation of the difference in today's city composition and assessed evaluation as compared with the 1970 census. We believe it is very important to give 1975-76 tax information for the adjacent cities of Oakland and Berkeley.

Response 11: Emeryville's recent estimated permanent population is 4,170. More recent socioeconomic information is now being developed in an extensive local needs assessment program. Despite the addition of the Watergate apartment complex since the 1970 census, its residents would not markedly change Emeryville's socioeconomic profile.

The low median family income (\$9,547 in 1970), the high number (13% in 1970) of families below the poverty line, the high percentage (48% in 1970) of minorities, the very high unemployment (18.5% in November, 1975), the high number of poverty families headed by women with children 18 or under (88% in 1970), the high percent of adults over 25 not high school graduates (61% in 1970), the high number of persons of age 65 (16% in 1970), etc., are all serious enough to indicate that the current profile would not be substantially changed.

While every city in Alameda County has realized substantial gains in assessed valuation for property tax purposes, Emeryville had the singular distinction of experiencing a 2.5 percent reduction in the City tax base last year. An 11 percent decline in sales taxes this past year further intensifies the difficulty of trying to meet minimum existing and new human service needs. In response to this situation, Emeryville raised its property tax rate 47 percent this fiscal year.

Emeryville's total tax rate is \$9.09/\$100 valuation (City portion=\$1.45) compared to Berkeley's average of \$15.79 and Oakland's average of \$14.40. Because of the City's socioeconomic conditions, declining tax revenues, and expanding human service programs, the ability to deliver services in Emeryville is comparable to the neighboring center cities. Few cities have raised property taxes to the extent that Emeryville has. Emeryville is very near its legal tax rate under State law, so that this source is not available for any substantial new revenues.

Comment 12: Page 14: The last two lines are confusing. When is the first repayment of the marina loan due? If the loan is to be mentioned here, it should be described more adequately.

Response 7: While the City has previously been granted three loans totaling \$2 million from the State Department of Navigation and Ocean Development, an additional loan will be required to complete the plans described in Response 5 and shown in Attachment 1. The current estimated cost of all the unbuilt public improvements and facilities described is \$1 million. Of the original loans granted, \$400,000 remains unspent. That amount, together with anticipated grants for the launching ramp and fishing platform, would necessitate an additional DNOD loan of \$300,000 to complete these public facilities. DNOD has indicated preliminary approval for the additional loan request, based on the current Marina Plan (trust tidelands area).

The additional berths are planned adjacent to the existing berths for sound planning and economic reasons. For years, the area adjoining the existing berths to the north has been indicated for berth expansion. On that basis, BCDC approved installation of the breakwater and necessary dredging in that location. Completion of those long-held plans appears to be most cost-effective and practical. It is questionable whether DNOD would loan funds for additional berths at another location.

Comment 8: The last paragraph, page 9, should be omitted since it is a discussion of an alternative action rather than a description of local and regional plans.

Response 8: Agreed.

Comment 9: Page 10, the description of San Francisco Bay should include its original size of approximately 780 square miles.

Response 9: Agreed.

Comment 10: Page 11, last paragraph: The marina peninsula is constructed differently than the marina hook and this difference should be discussed.

Response 10: The last paragraph of page 10 should be amended to read: ". . . the portion of the peninsula within the trust tidelands is composed of construction dirt and rubble placed in water at depths of up to 30 feet of soft Bay mud. The Marina peninsula consists of pile-supported fill. The soft Bay mud . . . "

Comment 16: Page 18: We disagree that there is increase in public use of the marina and access to the Bay due to the unauthorized fill.

Response 16: The public use and access elements of the Marina fill plan are numerous and extensive. To be provided are five acres of landscaped open space with picnic and play areas, walkways, bikeways, and over 4,200 linear feet of scenic shoreline. A public fishing platform, a public boat-launching ramp, additional public restrooms, and another 100 public small boat slips are also planned. Adequate parking and public transit make the location highly accessible, near a major population center, and hence fulfilling local and regional needs, including that of the BCDC Bay Plan.

With the completion of these extensive public use and access facilities in this location, increased public use of the Emeryville Marina and Waterfront Recreation Area is expected.

Comment 17: The report talks about the loss of parking areas if fill removal were to occur. It should be stressed that parking is not a favored use of fill.

Response 17: The previously approved fill plan of BCDC does not appear to allow a practical, tasteful, or esthetic plan. If the approved 365 parking spaces, boat launching ramp, chandlery-restaurant, and necessary streets were all installed on the originally-approved acreage, the peninsula would be largely covered with parking. No open space, green areas, or similar public access areas could have been installed.

The BCDC public access policy states that fill should produce a net increase in public access. Without the present acreage, a highly unattractive and limited public use and access area would result if the previously approved facilities were placed on the smaller-acreage fill. The fill is needed to create the public use facilities, such as Marina fishing platform, boat launching ramp, park, and open space, since the needed parking space is an integral part of such public facilities.

Comment 18: Adverse sociological impacts are significant. The precedent of placing the unauthorized fill has the potential of affecting the credibility in the effectiveness of the regulatory agency - BCDC. It can discourage future taxpayers support. The taxpayer can also expect to pay for additional

Response 12: Loan repayments began last fiscal year on the outstanding indebtedness to the State Department of Navigation and Ocean Development. Current annual debt service is \$123,270, which will climb to approximately \$150,000 per year when all loan funds have been expended. Also, see Response 7.

Comment 13: Page 15: The first paragraph should include the statement that a public agency supported by tax funds has been required to commit time and money on this problem due to the unauthorized fill.

Response 13: Agreed. Both BCDC and Emeryville have experienced costs in attempting to resolve this dispute. Emeryville has lost revenues from lease payments by the bait and tackle shop and also the fishing-related restaurant to be constructed adjacent to the bait and tackle shop. Substantial sales taxes have also been lost.

BCDC has expended staff time to review the application and fill situation, but has been partly reimbursed through the permit application fee.

Comment 14: Page 15: The second paragraph does not include the application to DNOD for large marinas at Albany and Richmond and expansion of the existing marina in Oakland, which might affect the public need.

Response 14: The existing and projected supply and demand for berthing spaces is discussed in Response 3 to BCDC. The Department of Navigation and Ocean Development estimates that demand for marina space will grow faster than the available supply.

Comment 15: No mention is made of hydrology and sedimentation in the section on the Physical Environment.

Response 15: Insert after first paragraph on Page 17: "The reduction in tidal prism reduces the velocity of tidal currents in the Bay. This has the effect of increasing sedimentation rates and increasing the amount of material that needs to be dredged to keep channels open."

the citizens of Emeryville, many of whom cannot afford the use of recreational facilities outside the immediate area.

Authorization of the fill would not be a failure to "punish" Emeryville, resulting in a loss of confidence in BCDC, but would instead result in a major financial commitment by Emeryville to provide for public use and recreation.

The planned expansion of the marina does not need to take place on the marina hook and is not contingent on the unauthorized fill since there are other sites within the marina area.

Response 19: The additional public facilities, fishing platform, launching ramp, open space and picnic areas, extensive shoreline trail, and boat berth expansion are best and optimally provided in the trust tidelands area. A major investment has been made in that location, and there is no feasible or cost-effective site for these facilities at another location on the peninsula. This issue is further covered in Response 7.

Comment 20: Mention should be made of the beneficial impact of requiring the removal of unauthorized fill. This deterrent would provide a major incentive to obey the McAteer-Petris Act.

Response 20: See Response 18.

Comment 21: Page 21, second paragraph: The loss of current recreational uses on the marina hook during fill removal would be minimal since public improvements have not been made.

Response 21: The temporary loss of access to the berths, to both the private boat renters and the commercial sport fishing facilities, would produce a serious adverse economic impact to the City. It could cause a default of loan payments during the fiscal year in which it occurred, depending on how long rental incomes would be disrupted by lack of access to the boat slips. The disruption and/or closing of the private businesses would cause serious impacts, including the potential for litigation involving both the City and BCDC.

Comment 22: The source of estimated costs for fill removal needs to be given.

enforcement staff at the regional level which should be and has been a local responsibility.

Response 18: It has not been firmly established that there is "unauthorized fill" in the Emeryville Marina area. Since the original permit was granted in 1970, additions and improvements to the Marina were made with the full knowledge and subsequent approvals of BCDC. Clear responsibility for the current situation is thus hard to determine. Likewise, whether the fill in place is "unauthorized" is still the subject of litigation in which a proposed lessee on the landfill is suing both the City and BCDC for alleged errors, omissions, and delays in the approval and implementation of the proposed Marina improvements.

The fill plan previously approved by BCDC would not provide a practical, tasteful or aesthetic plan, consistent with BCDC policies and its Bay Plan. (See Response 17, above). This alternative should be viewed in relation to those policies and objectives to insure the public that this agency is carrying out its responsibilities and its mandate.

No precedent is established by the Emeryville situation. Each project is viewed and considered on its individual merits by BCDC. The credibility of BCDC as an agency serving the interests of the general public is best enhanced by its objectively weighing the overall public benefit of each proposal before it against the proposal's adverse impacts.

Any socioeconomic impacts of allowing the fill must be weighed against the impacts of its removal, with the understanding that costs for removal or mitigation are to be paid by the citizens of Emeryville.

Not only would the expense to the City exceed its budgetary and tax-raising abilities and those of its taxpayers, but the public interest would be severely injured. In removing the fill, most and perhaps all open space land in the Marina area would be eliminated. Parking would be so restricted as to prohibit reasonable public use. Even the Powell Street extension onto the Marina peninsula might be affected.

The presence of the fill itself does not provide financial or other rewards to the City. The development of the Marina, the fishing platform, the boat-launching ramp, the landscaped areas, and parking will, instead, leave Emeryville with a substantial, long-term financial indebtedness. The two proposed commercial developments will not result in profits for the City. These commercial developments are designed to serve the users of the Marina: to make the Marina a public facility that can be used by a large and diversified public from the entire Bay area, and by

Response 23: As shown in Figure 3 of the Draft EIR, the street and utility corridor in the trust tidelands area is partially in the area indicated as "unauthorized fill."

Comment 24: Page 22, second paragraph: The ability to pay is not adequately discussed, particularly in terms of potentially available amortized loans, non-tax funds, and existing tax rates in adjacent cities.

Response 24: A source of funds other than the General Fund for removal of this fill is not apparent. DNOD would not lend funds to make a project no longer economically feasible and able to repay the loan. The current loans are predicated on the demonstrated economic feasibility of expanding the number of rentable berths. Grants, to our knowledge, are not available to remove fill. General fund revenues, including higher property tax rates, are the only source of funds for such an undertaking, to our knowledge, notwithstanding the complication of State tax rate limitations.

It is likely that severe economic problems and dislocations of higher property and/or other taxes would be imposed on Emeryville residents and taxpayers due to such an expenditure. In view of Emeryville's socioeconomic profile, and declining tax base, a \$1.5 million expenditure generating no new tax resources would accelerate the deteriorating economic and human conditions, at a time when an effort is underway to improve economic and human services, as evidenced by the Redevelopment Project, Housing Rehab program, senior citizen center, job placement program, etc.

Comment 25: Page 23, top paragraph: The inability to expand the marina does not necessarily have an adverse impact on general recreation in the East Bay.

Response 25: Recreational facilities and services in the East Bay would be adversely affected by the loss of the fishing platform, boat-launching ramp, sizable park/picnic area, 4,200 feet of shoreline trails and bikeways, and boat slips. These broad spectrum of public recreation and leisure services are all consistent with the BCDC Bay Plan for this area, as well.

Comment 26: The report comments that if the fill must be removed, then the city would have to cut back its services. There should be demonstration of this comment and a discussion of where the cutbacks would occur.

Response 22: The cost estimates were prepared by Environmental Impact Planning Corporation. The method used can be summarized as below:

1. Cross sections of the peninsula were drawn at eight points along the end of the peninsula.
2. The affected portion of the peninsula was approximated by eight sections having the above cross sections.
3. The volume of fill to be removed to reach the limits of Permit 1-70 was calculated assuming:
 - a. removal to depth of 8 meet (MSL);
 - b. new slide slopes will be similar to existing;
 - c. no removal over rip-rapped areas.
4. The volumes for each section were summed.

The volume to be removed if 4.7 acres were taken from the end of the peninsula was calculated, taking the average width of the end to be about 380 feet. Removal of the northernmost 540 feet of the peninsula would result in reduction of the land mass by 4.7 acres. Using a north-south cross section of the peninsula, at the centerline, the volume to be removed was calculated under the same assumptions as before.

The two volumes of fill were then applied to the following estimated per-cubic-yard costs, supplied by Milton Schwartz of Piombo Construction, San Carlos, California as of June 1976.

	<u>Low</u>	<u>High</u>
Load (drag line and loader)	\$0.75	\$1.25
Haul (1.5 miles to Berkeley dump)	0.90	1.50
Dump fee	<u>1.00</u>	<u>1.00</u>
Costs per cubic yard	\$2.65	\$3.75

The resulting total costs are:

Remove to 1-70 limits	\$1,029,000 - 1,457,000
Remove from end	1,571,000 - 2,223,000

Comment 23: Page 22: Is the utility corridor on unauthorized fill?

Comment 30: Page 26: Section 4 should be rewritten, recognizing the existence of an important wildlife habitat at the Emeryville Crescent within the Emeryville city limits. This wildlife refuge is on the priority list of both the BCDC and the East Bay Regional Park District. The use of the word "recreational" in the second sentence is misleading.

Response 30: This section should be amended to read: "It would require the City of Emeryville to acquire portions of private land along the Bay shoreline, open them to public access, and preserve them as a wildlife refuge. The Emeryville Crescent shoreline south of Powell Street, now owned by the Santa Fe Railroad, has been identified as a suitable location. It is an important waterfowl habitat that is on the priority list for preservation by both BCDC and the East Bay Regional Parks District. Acquisition"

Comment 31: Page 26: The last paragraph should be omitted since it is not spelled out as a viable alternative.

Response 31: The only alternative suggested in this paragraph is the potential for dedication as permanent open space of substantial acreage on the north side of Powell Street, between the existing development and the trust tidelands area. Such a dedication might be offered as a part of a development package. Further fill would be minor or nonexistent, to enable such a development. Public access to and use of the dedicated open space would be provided should such a project materialize.

Comment 32: The growth-inducing impacts are inadequately discussed in terms of traffic, noise, air pollution, public use, and facilities needed. Authorization of this fill could have the precedent-setting effect of increasing unauthorized fills in other parts of the Bay.

Response 32: See Response 18. Approval of the proposed plan for the trust tidelands would generate little growth-inducement. The services offered are for recreation and leisure, although some additional traffic and its noise would result from the greater use of the area. Growth inducement is unlikely, not only because of the project's recreational aspects but also because of the limited amount of developable land in the area.

Response 26: The basis for the adverse impacts on City government services was discussed in Response 11 and 24. Service reductions would be difficult to predict. Only the City Council can determine them, and these decisions are made at budget adoption time with alternatives before them and upon considering citizen input. Some 80 percent of the City's budget is devoted to public safety services, which would have to be seriously examined in any service reductions.

In past years, Emeryville has enjoyed a favorable financial situation, and the property tax rate has been low compared to those of other cities. This situation no longer exists, and substantial budget balancing, perhaps including reduction of City services, will be necessary in the future to keep the City on a sound financial basis.

Comment 27: Page 24: The secondary adverse socioeconomic impact of greater significance is the disregard of BCDC permit requirements.

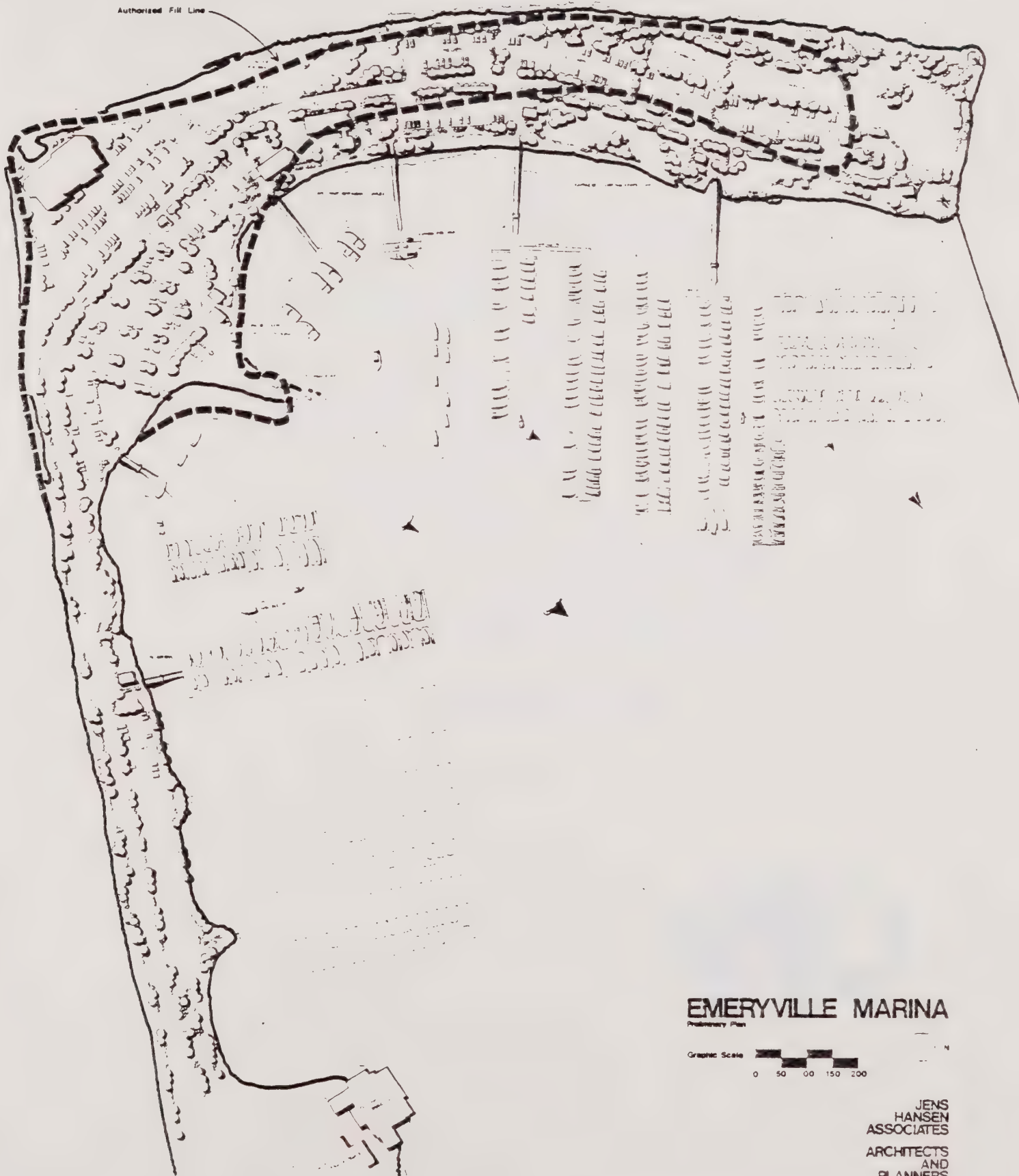
Response 27: See Response 18.

Comment 28: Page 24: The section on utilizing the fill for public use is so conceptual that it is of no value. For 7 years the city has had a permit requiring a public boat launching ramp and landscaped areas for public use. These have never been developed and this information should be included at this point. Also, to be viable, an alternative should include a precise statement of public uses and their costs.

Response 28: See Response 7. Prior plans have not been implemented as expected; however, the current plan includes an adequate financing plan with an expected completion schedule of two to 2½ years from date of BCDC permit approval. In the BCDC Design Review Board review and approval, a study of the financing plan was a vital part of their approval.

Comment 29: Page 25: At the end of Section 2, a statement ought to be made that there would be a positive socioeconomic impact related to the mitigation required because of this unauthorized fill.

Response 29: See Response 18.



EMERYVILLE MARINA BAY FILL
DRAFT ENVIRONMENTAL IMPACT REPORT

Prepared for the City of Emeryville

September 1976



Environmental Impact
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INTRODUCTION

The following Environmental Impact Report concerns itself with the environmental effects of the authorization by the Bay Conservation and Development Commission of 4.7 acres of fill that has already been placed in San Francisco Bay.

It should be emphasized that the issue of whether the fill was "authorized" or "unauthorized" in the legal and official sense of the word is the subject of pending litigation. The fact that this report uses these words does not constitute an admission of or acquiescence to any issues in that lawsuit by the City of Emeryville or the Bay Conservation and Development Commission. The purpose of this report, which was prepared by an outside consultant with no interest in the outcome of the lawsuit, is simply to assess the environmental impacts of the fact that the fill in question was placed in San Francisco Bay.

PROJECT STAFF

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<u>Alternative</u>	<u>Short-Term Local Impacts</u>	<u>Long Term Area-Wide Impacts</u>	<u>Cost</u>
Issue permit for unauthorized fill	Impacts have already occurred; adverse effects on <ul style="list-style-type: none"> - water quality - marine biology 	Continued presence exerts adverse effects on Bay's <ul style="list-style-type: none"> - water quality - fisheries - marine biology - waterfowl - climate 	None

Alternative A

1. Remove unauthorized fill	Adverse effects on <ul style="list-style-type: none"> - water quality - marine biology - Marina operations - transportation 	Restores water quality and marine biology to pre-fill conditions; may hinder further development of Marina	\$1.29 to \$1.72 million
2. Remove equivalent fill	Adverse effects on <ul style="list-style-type: none"> - water quality - marine biology - transportation 	Same as those of Alternative A.1	\$1.46 to \$2.22 million

2

Alternative B: Authorize with compensatory mitigation

1. Utilize fill for public use	No significant impacts	Allows public access to shore; reduces revenue generation to City	Unknown
2. Remove Ashby Causeway	Adverse effects on <ul style="list-style-type: none"> - water quality - marine biology - City finances 	Restores highly productive tideland; improvement in water quality, marine biology	\$0.46 to \$0.63 million
3. Open reclaimed land to tidal action	Changes dry-land habitat to tidal marsh Serious impact on City finances	Restores tideland; may remove agricultural land from production	Unknown
4. Acquire shoreline land for public use	No significant impacts	Allows public access to shore; prevents further development of shoreline	Unknown

I. SUMMARY

This environmental impact report has been prepared by the City of Emeryville as part of its application to the San Francisco Bay Conservation and Development Commission for authorization of 4.7 acres of unauthorized fill now in place on the Emeryville Marina Hook.

Three alternative courses of action are analyzed:

- Authorize the additional fill for specified public uses as requested by the City.
- Require removal of the fill.
- Authorize the fill and require compensating mitigation measures by the City.

The impacts of each of these alternatives can be categorized as short-term local impacts, long-term area-wide impacts, and costs. These are summarized in the table on the following page.



REGIONAL LOCATION MAP



FIGURE 1

II. PROJECT DESCRIPTION

A. HISTORY OF THE PROJECT

The City of Emeryville has an incorporated area of some 1,410 acres of which about 680 acres are San Francisco Bay tidelands (see Figure 1). The city is almost completely urbanized; much of the development consists of industrial facilities along the Bay shore adjacent to the Southern Pacific Railroad tracks. About a third of the industrial area is located on Bay fill between the railroad tracks and the freeway (Nichols and Wright 1971). Emeryville is completely enclosed by urbanized areas of Berkeley and Oakland and since the 1920s has sought to expand by filling and developing its tideland acreage.

In the early 1960s the City formulated plans to diversify its socioeconomic makeup, which heretofore had been predominantly industrial and low-income residential, to include recreational, commercial, and middle-income residential components. Developments were to be placed on Bay fill in the 760-acre wetland triangle west of the Eastshore Freeway.

Also in the early 1960s, increasing concern was being expressed by conservationists, planners, and public officials over the consequences of the continuing reduction in size of San Francisco Bay due to land reclamation and filling. This concern resulted in the passage of the McAteer-Petris Act (1965),

Permit No. 1-70 on June 10, 1970, authorizing the City to place 7.8 acres of additional fill as part of its marina development (see Figure 2). The 7.8 acres consisted of:

Parking	2.7 acres
Public plaza and walkway	3.7
Streets and harbormaster's office	1.2
Boat launching ramp	0.2
Marina shops	0.5
Restaurant	0.5
Less fill already in place	<u>- 1.0</u>
Total	7.8 acres

Between June 1970 and April 1974, seven amendments to Permit 1-70 were granted by BCDC. None required additional fill; however, some of the drawings used in the processing of these applications by both BCDC and the City depicted areas of fill in excess of the authorized 7.8 acres.¹

In June 1974 the City of Emeryville applied for Amendment No. 8 to the original permit for authorization to add 200 berths at the marina. The application summary of Amendment No. 8 to Permit 1-70 is reproduced as Appendix A. During the processing of this application, BCDC staff first noticed the discrepancy among the area of authorized fill, the area shown on various maps being used in connection with planning for the marina, and the actual area of fill in place. It was determined by BCDC staff that 4.7 acres of unauthorized fill had been placed on the Emeryville Hook.

¹The exact acreage shown in these drawings is in dispute.

which established the San Francisco Bay Conservation and Development Commission (BCDC) to regulate and restrict any additional encroachment on San Francisco Bay.

The conflict between the City of Emeryville's desire to create additional development land by filling its tidelands and BCDC's mandate to restrict placement of additional fill led to litigation between the City and the State that extended from February 1966 to November 1968 and was viewed as a test case of BCDC's authority. The outcome of the final State Supreme Court decision was a ruling that Emeryville must apply for a BCDC permit for any additional fill. To that date, about 72 acres of fill had been placed west of the Eastshore Freeway in the 760-acre wetland triangle, which under California Government Code Section 66660 was exempt from BCDC jurisdiction. One acre of fill had been placed in Emeryville's "trust" tideland area, which includes 288 acres of tideland deeded to the City by the State in 1919 with the requirement that the area be put to certain beneficial uses.

On December 29, 1969, the City of Emerville filed an application for a BCDC permit to authorize a 330-berth marina requiring an additional 10.3 acres of fill on the hook of the Powell Street peninsula in the trust tideland section. The fill included 2 acres of parking, 0.3 for harbormaster facilities, 6 for commercial activities, and 2 for a breakwater. After several revisions to the original application, BCDC issued

BCDC thereupon requested and the City agreed to amend its application for Amendment No. 8 to include a request for authorization of the additional fill and to prepare an environmental impact report on the alternative courses of action that BCDC could take with regard to the unauthorized fill.

BCDC Resolution No. 28, concerning the unauthorized fill and the need for the preparation of an EIR, is attached as Appendix B.

B. DEFINITION OF THE PROJECT

The purpose of this EIR is to assist decision makers in identifying the best course of action to take with regard to the unauthorized fill. It aims to accomplish this by identifying the physical, ecological, and socioeconomic consequences of various alternative courses of action.

The "project" for which this EIR is written is defined as the authorization of the 4.7 acres of unauthorized fill now in place on the Emeryville Marina Hook. The request for authorization is being made in connection with the City of Emeryville's application for Amendment No. 8 to BCDC Permit 1-70. The authorization is to include a retroactive approval of the placement of the fill and approval of specified uses for it.

The location and extent of the unauthorized fill is shown in Figure 3. The uses for the fill, shown schematically



PROJECT LOCATION MAP



FIGURE 2

in Figure 3, are for public recreation, landscaped areas open to the public, and possibly about 20 free parking spaces needed for a future fishing pier. It can be seen that some existing parking areas and the bait shop authorized earlier by BCDC are partly located on unauthorized fill. Authorization of the 4.7 acres of fill would include authorization of these uses, already approved by BCDC. (No precise landscaping plan has been approved by either the City or BCDC.)

This project is unique in that the action itself (placement of the fill) has already taken place. Discussion in the EIR of the project's impacts concerns effects that have already taken place or would continue if the fill were authorized.

Authorization of this fill is one course of action; the effects of other courses of action are analyzed in Section V of this EIR.

C. RELATIONSHIP TO LOCAL AND REGIONAL PLANS

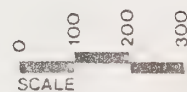
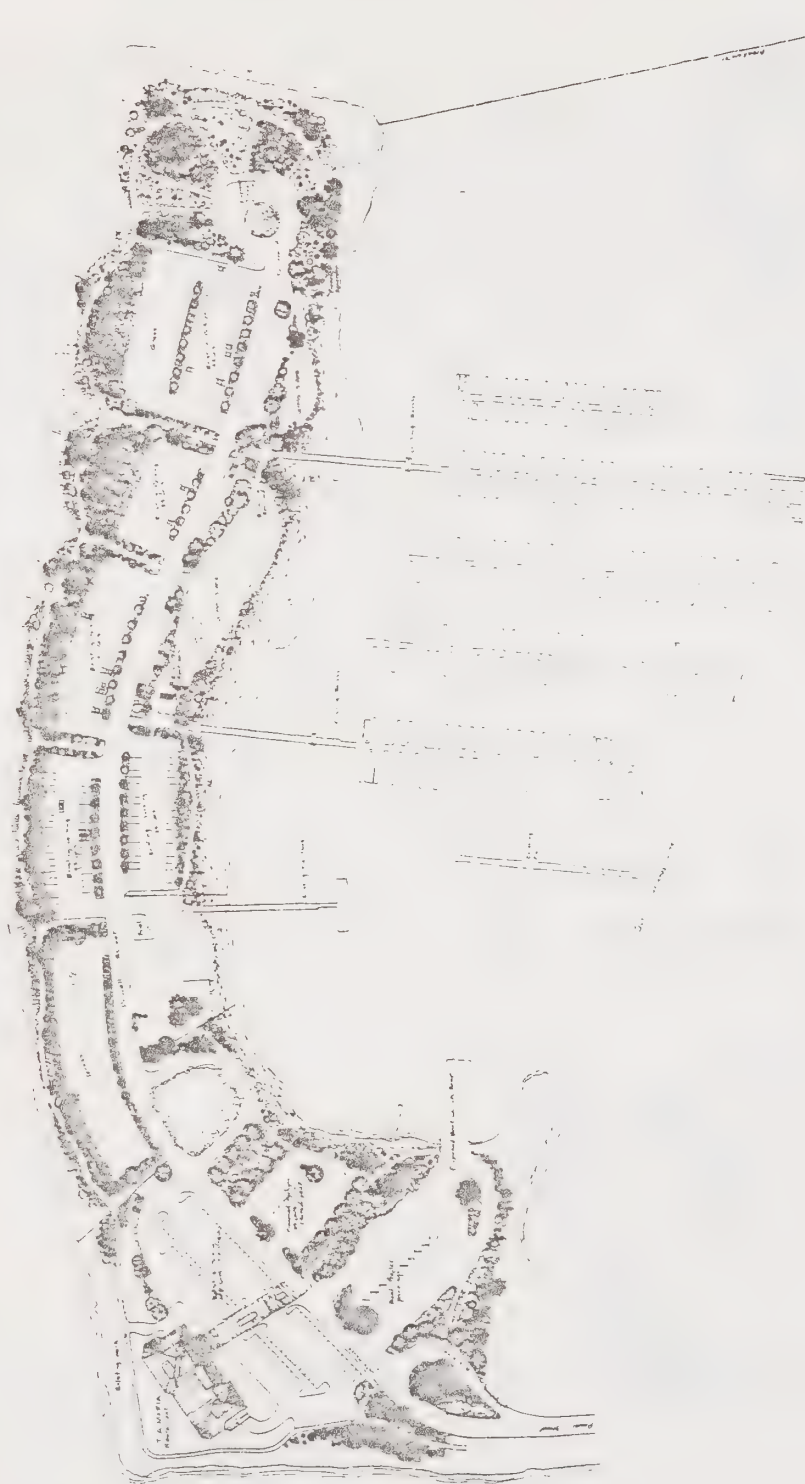
The City of Emeryville has retained the consulting firms of EDAW, Inc. and George Nolte and Associates to prepare a master plan for the marina area. Work on this master plan is partially complete; further work has been held in abeyance until the issues concerning the uses of the unauthorized fill have been resolved. A landscaping conceptual plan has been prepared, however, and is used to indicate public uses intended for the



AREA OF AUTHORIZED FILL



FIGURE 3



FROM EDAW STUDY 1974

SITE PLAN



FIGURE 4

Marina Hook area. This plan is based on the total area of existing fill and is shown in Figure 4.

The City of Emeryville General Plan designates the entire Marina area as an "Action Area," a zone where there is a high probability of new private investment because of existing development opportunities. Plans for the area include new marina facilities, restaurants, and commercial activities, and have been approved by the City.

Authorization of the 4.7 acres of fill appears to conform with the Emeryville General Plan, although it should be noted that one of the goals of the Plan is:

- 6) Provide for the development of the waterfront district according to sound environmental principles and responsible planning agency philosophy.

The Bay Conservation and Development Commission, which is responsible for regulating filling, summarizes its planning policies in the Bay Plan. These policies emphasize protecting the Bay as a great natural resource while recognizing that some fill should be approved for water-oriented uses that provide substantial public benefits.

Except under limited circumstances when fill removal is involved, the Bay Plan policies do not permit significant fill on publicly-owned lands, such as the Emeryville Marina, for commercial uses not directly associated with a marina.

The U.S. Army Corps of Engineers has permit authority over the placement of fill in tidal waters. While it is

III. ENVIRONMENTAL SETTING

A. PHYSICAL ENVIRONMENT

The Emeryville Marina is located on the east shore of San Francisco Bay about a mile north of the San Francisco Bay Bridge (see Figure 1, following page 3).

San Francisco Bay is the only natural deepwater harbor on the California Pacific Coast. It is part of an extensive estuarine system that reaches into the Central Valley and has an important influence on the geographic, physical, and biological resources of this part of the state.

Since the 1850s, human activities have substantially reduced the area, volume, and tidal prism of the Bay, both directly through filling and diking and indirectly through increased sedimentation from the surrounding watersheds. San Francisco Bay now has a water surface area of about 423 square miles, a volume of 5 million acre-feet, and a tidal prism of 125 million acre-feet.

Water quality in the Bay is adversely affected by the high concentration of urban centers around its periphery. The main criterion of water quality, the amount of dissolved oxygen, ranges from an average of 6.8 to 9.5 parts per million (ppm). Fish and marine life require at least 4.5 ppm to survive.

Oxygen is supplied to the water primarily through mixing due to wave action, direct absorption through the water surface,

uncertain whether a Corps permit is required for the unauthorized fill, it should be noted that authorization of the fill by BCDC would not necessarily mean that the Corps would issue a permit, and a Federal review process may be required.

The City of Emeryville has \$2 million in loans from the California Department of Navigation and Ocean Development for complete implementation of its marina plan. In fiscal year 1969-70, a \$1 million loan was obtained to construct 300 berths of the planned 500-berth marina. This was supplemented in fiscal year 1973-74 by \$250,000, and an additional loan of \$750,000 was granted to add the remaining 200 berths. This State loan is funded by gasoline sales tax from boats and must be repaid out of revenues from marina uses at 4½ percent interest¹ over a 30-year period.

Authorization of the fill will allow the option for additional parking places to be installed, facilitating the planned 200-berth marina expansion (provided BCDC permits use of the unauthorized fill for this purpose).

¹The interest rate is variable; although currently 4½ percent, it was originally 4 percent.

up to 30 feet over up to 30 feet of soft Bay mud. This soft Bay mud overlies older compacted mud and Temescal formation deposits (stiff clayey sands) which, in turn, overlie the sandstone and shale bedrock of the Franciscan Assemblage. The area is subject to severe ground shaking in the event of a major earthquake due to the layer of soft Bay mud underlying the fill.

The fill was constructed by end-dumping dirt and rubble from trucks and compacting the material with bulldozers whenever possible (i.e., above the water line).

B. BIOLOGICAL ENVIRONMENT

San Francisco Bay provides a rich habitat for a wide variety of fish and wildlife. The fishery constitutes a valuable commercial and recreational resource. Anadromous fish such as salmon, steelhead trout, striped bass, sturgeon, and shad use the Bay as a migration route, feeding area, and nursery for juvenile fish. Young salmon and steelhead especially require the shallow water habitat found in most parts of the Bay.

Bait and forage fish, including sardines, anchovies, herrings, and smelt, inhabit all parts of the Bay and spawn near its entrance. Bottom fish such as sole and flounder are plentiful in the Bay and use it as a nursery ground. Other fish commonly found include croakers, perch, sharks, and rays.

and transferral of oxygen from tidal mudflats and vegetation. All of these oxygen-supply mechanisms depend on the extent of the surface area of the Bay.

The ability of the Bay to assimilate sewage and pollutants depends on the amount of dissolved oxygen, the amount of mixing caused by water circulation in the Bay, and the extent to which pollutants are carried out of the Bay, primarily by tidal currents. The amount of mixing and water circulation depends on the size of the tidal prism of the Bay.¹ The larger the tidal prism, the more intense the tidal currents causing mixing, dilution, and dispersal of pollutants to the Pacific Ocean.

San Francisco Bay also has an important influence on the climate and air quality of the Bay region. It evens out temperature extremes in the surrounding land area and acts as a wide, open channel for cool marine air moving into the Santa Clara Valley and Carquinez Strait. The daily mean maximum July temperatures for these areas are probably 10°F lower due to the presence of the Bay.

The San Francisco Bay Area is subject to very strong destructive earthquakes originating along the San Andreas, Hayward, and Concord faults. The Marina itself is composed mainly of construction dirt and rubble placed in water at depths

¹Tidal prism: The volume of water between high and low water.

residents owned their homes (21.1 percent) and a high percentage of housing units was constructed before 1939. Rents in Emeryville averaged 25 percent below those in surrounding cities.

The City of Emeryville's General Plan estimated the number of employees in 1973 at 13,700, primarily in warehousing and trucking, manufacturing, and office/retail/business services.

Out of a total land area of 750 acres, only 80 are residential, reflecting the predominantly industrial character of land use in the city. Almost all of the 750 acres are urbanized, most in the three industry categories identified above. An additional 700 acres of water or tidelands lie within the city boundaries.

The Emeryville Marina on the project site has four employees. Marina-related income during the fiscal year ending June 30, 1975, totaled \$198,835. This compares with total operating revenues of \$2.45 million and expenditures of \$2.21 million for the City during the same period. The entire \$2 million in loans from the Department of Navigation and Ocean Development used to build the Marina was outstanding at the end of fiscal 1974-75. Total annual repayments amount to \$143,900.¹

¹California Department of Navigation and Ocean Development 1970 and 1973.

Oysters and clams are present in the Central and South Bay wherever there is suitable attachment material. Shrimp and crabs are plentiful in the shallow parts of the Bay and in the tidal shoreline areas.

San Francisco Bay is an important nesting place, feeding area, and wintering ground for hundreds of thousands of birds on the Pacific Flyway. Marshes are used for nesting, feeding, and protective grounds for many bird species. Salt production lands are used for nesting or feeding, especially by shore birds during high tide. Mudflats and tidelands are rich food sources for shore birds and waterfowl; most use occurs where water depth is less than 18 feet at low tide. Open water areas are used by ducks, cormorants, geese, and loons, primarily for feeding.

The Emeryville Marina area is designated in the BCDC Bay Plan as having high value as a water bird habitat. In previous years it was a favored location for duck hunting.

C. SOCIOECONOMIC ENVIRONMENT

Emeryville has an estimated population of 4,330 (City of Emeryville 1974, p. 26). 1970 census data indicate that the city's median income was 10 percent lower than that for Alameda County. Age characteristics in terms of percent of population below 18 and over 65 were similar to those of the county.

The 1970 census (reflecting characteristics of east Emeryville neighborhoods) indicated that a small percentage of

IV. ENVIRONMENTAL IMPACTS

A. PHYSICAL ENVIRONMENT

The impacts result from the placement of 4.7 acres of additional fill around the edge of the Emeryville Marina Hook. This fill consists of various types of construction debris and was placed at the time of the authorized filling operation in the early 1970s. The unauthorized fill is indistinguishable from the authorized fill (see Figures 3 and 5); its limits have been determined by aerial photographs and maps.

The significant physical impacts associated with the placement and continuing presence of the fill are the cumulative adverse impacts stemming from reduction of the Bay surface area, volume, and tidal prism. Although the amount of fill is very small in proportion to the size of San Francisco Bay, successive encroachments on the Bay have in the past and would in the future exert significant adverse impacts on San Francisco Bay.

Reduction in surface area has lowered the amount of dissolved oxygen in the water, degrading water quality. Reduction in the size of the tidal prism has limited the ability of the Bay to assimilate pollutants through mixing and flushing.

The presence of the fill has changed the climate of the Bay Area. Reduction of the volume of the Bay contributes to higher summer temperatures and lower winter temperatures.

Construction of a bait and tackle shop has been delayed due to litigation resulting from the unauthorized landfill. This has delayed potential increase in lease revenues to the City.

Considerable demand for marina berths exists in the East Bay. An informal survey indicated a large unmet need for docking space. The Alameda Marina has a waiting list of about 100, and waiting time for space at the Berkeley Marina averages about a year. Any vacancies at the Oakland Marina (800 berths) are filled immediately. The City of Emeryville intends to expand the Marina by adding 200 berths to the existing 265.

There are no known archaeological sites in or around the Emeryville Marina (see Appendix C).

Reduction of the Bay surface area contributes to increasing air pollution by retarding wind flows, increasing the frequency and intensity of inversions. Increases in air pollution and loss of water surface area also increase winter radiation fogs.

Filling of the Bay has added to the land surface area available for human activities in an area where foundation conditions are poor and earthquake damage risk is high. If this land is developed in the future, there will be a hazard to property and human life.

The actual placement of the 4.7 acres of additional fill entailed minor temporary adverse physical impacts: increased water pollution in the immediate vicinity of the Hook, noise and traffic impacts associated with bulldozers and trucks placing the fill. The permanent impacts of the fill placement are incremental increases in the effects described above. The effect of the 4.7 acres itself, however, would not significantly add to that of the 7.8 acres of fill authorized by Permit 1-70.

B. BIOLOGICAL ENVIRONMENT

Severe local adverse impacts to the marine biology in the immediate area were caused by combined placement of the authorized and unauthorized fill: destruction of 12.5 acres of marine habitat on the Bay floor and water quality degradation in the immediate vicinity of the fill (when side slopes are included, an area of more than 12.5 acres is involved).



1



2



3



Key

SITE VIEWS

FIGURE 5

The planned expansion would generate increased revenues to the City from rental fees for berths and commercial leases. Based on an average annual rental income of \$490 per berth,¹ the increase of 200 berths would generate an additional \$98,000. Assuming the present ratio of 0.015 employee per berth, the 200 additional berths would result in an increase of three jobs.

The expansion of the Marina would also create short-term construction employment.

¹Income from Marina berth rental during fiscal 1974-75 was \$130,081 (City of Emeryville 1975, Schedule B-6); 265 berths are currently available.

More severe potential consequences are the small but cumulative effects caused by the reduction in size of the Bay due to the continued presence of the fill.

The incremental loss of shallow water habitat affects the anadromous fishery by limiting feeding and nursery areas, particularly for salmon and steelhead. Other fish species have lost feeding, nursery, and spawning areas. While certain crustaceans such as oysters may have benefited from the presence of suitable attachment locations, others are adversely affected by the reduction in Bay volume and surface area.

The loss of surface area adversely affects water birds by reducing the available habitat for feeding.

Loss of Bay volume and tidal prism has degraded water quality, which in turn adversely affects fisheries, shellfish, and water birds.

C. SOCIOECONOMIC ENVIRONMENT

Authorization of the fill in itself would have few socioeconomic impacts, since it would merely sanction an existing landfill. As an integral part of the entire Marina the additional fill has resulted in increased public use of the Marina, access to the Bay, and recreational value of the peninsula. Authorization would enable continuation of present plans for the Marina, which include the addition of 200 berths and possible additional parking space. This would help meet the demand for marina berths in the East Bay area.

biological system. Material settling out tends to smother some of the benthic organisms. The suspended particles themselves act as carriers of various organic and inorganic pollutants, degrading water quality in the area.

The beneficial long-term area-wide impacts would result from the increase in the Bay's surface area, volume, and tidal prism. This would tend to increase dissolved oxygen admixing and hence improve water quality. Improved water quality benefits the fisheries, benthic life, and waterfowl. In addition, there would be an increase in shallow water habitat for fish feeding, nurseries, and spawning.

Additional short-term adverse impacts during the removal of the fill would be the noise, dust, and transportation disruption associated with trucking the fill to a disposal site; disruption of Marina operations, including temporary removal of access to mooring piers; and prohibition of recreational uses on the Hook during the period of fill removal.

This alternative could also adversely affect the City of Emeryville's plans to expand the Marina by an additional 200 berths by possibly reducing the amount of available parking space.

The major impact of this alternative on the City would be the costs incurred in removing the fill. These are estimated to range from \$1.03 million to \$1.46 million, based on a cost of \$2.65 to \$3.75 per cubic yard, including transportation and disposal costs. Other costs would be incurred by the removal of

V. ALTERNATIVES

A. REMOVAL OF UNAUTHORIZED FILL

1. From Area Delineated by BCDC

This alternative would entail removal of all fill from the area delineated on the BCDC staff map (Figure 3) to a depth of eight feet below mean sea level (MSL). The fill would probably be removed by dragline, placed in dump trucks, and transported to disposal sites in the Emeryville area. It has been assumed that no fill would be removed from the Bay side of the fill, in order to avoid disturbing existing protective rip rap. The operation would take about four to six months.

This alternative would have short-term local adverse impacts but long-term area-wide minor beneficial impacts on the water quality and marine biology of the Bay. In addition, a significant adverse economic impact would occur.

The short-term adverse impacts near the Emeryville Hook would result from the deterioration in water quality caused by dredging. Removal of the 4.7 acres of fill would cause substantial increases in turbidity due to the suspension of muds and silts in the water surrounding the Emeryville Hook. The suspended material can be carried considerable distances before settling out or being dispersed. Light penetration into the water is reduced, limiting the productivity of the marine

Removal of the fill would furnish some short-term jobs; however, there may be a loss of long-term employment if the Marina expansion does not take place. Inability to expand the Marina would have an adverse impact on recreation in the East Bay: demand for marina space would continue to be unmet.

2. From Equivalent Area at End of Hook

This alternative would require removal of 4.7 acres of fill to a depth of eight feet below MSL from the top of the Hook instead of the exact area delineated on the BCDC map.

The impacts would be essentially the same as for Alternative A.1 except that the temporary local adverse impacts of decreased water quality would be less severe. There would be significantly less disruption to the use of the Marina and Hook, and the costs would range from \$1.46 million to \$2.22 million.

Removal of the breakwater would be the only other cost involved, since there is no need for extension of access way and relocation of the existing road. Again, the cost of this alternative would require cutbacks in the City services and/or a tax rate increase.

B. AUTHORIZE FILL AND REQUIRE COMPENSATORY MITIGATION

This alternative would authorize the 4.7 acres of fill now in place on the Emeryville Marina Hook, but would require the City of Emeryville to take measures to alleviate the cumulative adverse impacts caused by the continuing presence of the fill. The

the fill; the breakwater would have to be rebuilt (about \$150,000), the access way to berths and gasoline pump facility would need to be extended (\$60,000), and the existing road would be relocated (\$50,000). An additional temporary economic loss to the City would occur due to loss of access to piers and the Marina during the required reconstruction.

The total cost to the City of this alternative would equal 37 to 49 percent of the City's total expenditures in fiscal 1976-77. The Emeryville City Council recently approved a 45-cent increase in the tax rate to alleviate a projected half-million-dollar operating deficit for fiscal 1976-77. Cuts of about four percent in the operating budget are also being considered.

This alternative would necessitate serious reductions in service and/or more than doubling the City's tax rate to provide the revenues in one year, i.e., a \$1.80 increase in the \$1.45 tax rate.

The removal of the landfill could adversely affect the financial position of the Marina development. Reduced land area would limit the size of the parking area that could be provided, thereby limiting the potential for expansion of the Marina. Development of commercial spaces could also be curtailed due to removal of the fill, further reducing the Marina's income potential. These impacts could create difficulties in repaying the \$2 million loan received from the California Department of Navigation and Ocean Development for the development of the Marina.

Removal of the Ashby Causeway fill would only partially compensate for the 4.7 acres of water surface lost at the Marina Hook; however, it would restore about three acres to tideland as opposed to open water. Tideland is considerably more biologically productive than open water. It provides a habitat for marsh plants, phytoplankton, and zooplankton that are vital in the food chains for waterfowl, crustaceans, and fish. Tidal lands also play an important role in providing dissolved oxygen to Bay waters.

This mitigation measure would have minor temporary adverse local impacts such as noise and increased traffic. Costs would be on the order of \$463,750 to \$626,250. The cost of this alternative would require cutbacks in City services and/or a tax-rate increase.

3. Restoration of Marshland

This would require the City of Emeryville to purchase or lease 4.7 acres of diked-off tidal lands elsewhere in the Bay and open them to tidal action. This would compensate for the loss in Bay surface area, biological productivity, water quality, and recreational opportunities. This mitigation measure would not have the short-term local adverse impacts resulting from removal of fill.

No particular location has been identified for implementing this measure. The most feasible areas appear to be around San Pablo Bay and near Hayward, and might be incorporated in a larger plan to restore marshlands in these areas. Should this measure

principal adverse impacts are loss of Bay surface, deterioration in biological productivity, and restriction of public water use.

possible mitigation measures have been suggested to compensate for these adverse effects; they could be implemented together or individually.

1. Utilize Fill for Public Use

The area of additional fill could be devoted to public access and related recreational uses. This could require revision of the Master Plan and a change in BCDC-authorized uses. The cost of such changes would be minimal. The public uses would be developed mutually by the City of Emeryville and BCDC.

The environmental impacts of this alternative would be identical to those of the project (authorization of the fill), although some additional costs could be incurred by the City in implementing the eventual plan for public use of the fill in question.

2. Remove Ashby Causeway

The Ashby Causeway is about three acres of City-owned fill located immediately west of the Ashby interchange. It was placed there in 1965-66 as the first part of a plan by the City of Emeryville to fill the area between the Ashby interchange and the Marina Hook. After litigation between BCDC and the City, additional filling was stopped, leaving the Causeway between Ashby Street and the Marina Hook unfinished.

VI. UNAVOIDABLE ADVERSE IMPACTS

Since the EIR describes a project that entails authorization of an action that has already taken place, discussion of unavoidable adverse impacts is included in Section IV, Environmental Impacts.

VII. MITIGATION MEASURES

Mitigation measures are discussed as part of Alternative B in Section V, Alternatives. Authorization of the project would not require energy consumption.

VIII. RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF MAN'S ENVIRONMENT AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

The short-term use of man's environment, placement of the 4.7 acres of fill, has already taken place. Authorization of the fill would not significantly enhance long-term human productivity but would degrade the productivity of the Bay as a natural resource.

be put into effect, there may be a loss of productive agricultural land and a decrease in the tax base of whichever county contains the tidal land. The cost of this alternative is not known.

4. Acquisition of Shoreline Land for Public Use

The primary purpose of this mitigation measure is to compensate for the loss of recreational opportunities caused by the placement of the 4.7 acres of fill. It would require the City of Emeryville to acquire portions of private land along the Bay shoreline and open them to public access and recreational use. The Emeryville Crescent shoreline south of Powell Street, now owned by the Santa Fe Railroad, has been identified as a suitable location. Acquisition of such property would reduce the tax base contributing to the City of Emeryville's tax revenues. Costs for acquisition are unknown.

The City of Emeryville would consider a private development that would provide for dedicating permanent open space to the City, which would maintain it for public use.

Comment 16: Page 18: We disagree that there is increase in public use of the marina and access to the Bay due to the unauthorized fill.

Response 16: The public use and access elements of the Marina fill plan are numerous and extensive. To be provided are five acres of landscaped open space with picnic and play areas, walkways, bikeways, and over 4,200 linear feet of scenic shoreline. A public fishing platform, a public boat-launching ramp, additional public restrooms, and another 100 public small boat slips are also planned. Adequate parking and public transit make the location highly accessible, near a major population center, and hence fulfilling local and regional needs, including that of the BCDC Bay Plan.

With the completion of these extensive public use and access facilities in this location, increased public use of the Emeryville Marina and Waterfront Recreation Area is expected.

Comment 17: The report talks about the loss of parking areas if fill removal were to occur. It should be stressed that parking is not a favored use of fill.

Response 17: The previously approved fill plan of BCDC does not appear to allow a practical, tasteful, or esthetic plan. If the approved 365 parking spaces, boat launching ramp, chandlery-restaurant, and necessary streets were all installed on the originally-approved acreage, the peninsula would be largely covered with parking. No open space, green areas, or similar public access areas could have been installed.

The BCDC public access policy states that fill should produce a net increase in public access. Without the present acreage, a highly unattractive and limited public use and access area would result if the previously approved facilities were placed on the smaller-acreage fill. The fill is needed to create the public use facilities, such as Marina fishing platform, boat launching ramp, park, and open space, since the needed parking space is an integral part of such public facilities.

Comment 18: Adverse sociological impacts are significant. The precedent of placing the unauthorized fill has the potential of affecting the credibility in the effectiveness of the regulatory agency - BCDC. It can discourage future taxpayers support. The taxpayer can also expect to pay for additional

IX. IRREVERSIBLE ENVIRONMENTAL CHANGES

Authorization of the 4.7-acre fill would probably perpetuate the existence of the fill permanently. While the fill could be removed at any subsequent time, it is likely that capital improvements will be made on the fill that may substantially increase future removal costs. The continued existence of the fill would entail an incremental loss of the Bay's natural resource environment.

X. GROWTH-INDUCING IMPACTS

The major growth-inducing impact of authorization of the 4.7 acres of additional fill would be to make it possible for the City to proceed with its plans for expansion of the Emeryville Marina. This expansion is planned to satisfy demands for additional marina berths in the Bay and to generate additional employment and revenue to the City.

REFERENCES

California Department of Navigation and Ocean Development.
1970. Emeryville Marina feasibility report. June.

_____. 1973. Emeryville Marina feasibility report. July.

City of Emeryville. 1974. General Plan, Volume I. Adopted
by City Council December 2.

_____. 1975. Annual report of financial transactions to
State Controller: fiscal year ended June 30, 1975.

EDAW, Inc. Unpublished. Emeryville Marina.

Nichols, Donald A., and Wright, Nancy A., comp. 1971. Pre-
liminary map of historic margins of marshland, San Francisco
Bay, California. U.S. Department of the Interior, Geologi-
cal Survey. San Francisco Bay Region Environment and
Resources Planning Study, Basic Data Contribution 9. Menlo
Park.

San Francisco Bay Conservation and Development Commission.
1969. The San Francisco Bay Plan and Supplement.

APPENDIX A

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102

557-3686

January 24, 1975

APPLICATION SUMMARY

(To be heard at Commission Meeting of February 6, 1975)

Amended Application for
Amendment No. 8
Permit No. 1-70
90th Day: 3/18/75

APPLICANT: City of Emeryville

LOCATION: Emeryville Marina

ASSIGNMENT PROPOSED:

The applicant has revised an application for Amendment 8 to Permit No. 1-70. The original application for Amendment 8, heard by the Commission on September 19, 1974, requested permission to place 200 additional berths, utilities and parking for 150 cars. The revised application for Amendment 8 requests permission to expand the existing 300-berth Emeryville Marina by (1) placing 200 additional small boat berths in the Bay, (2) providing utilities, lockers for boaters and related marina structures, (3) constructing a public fishing walkway on an existing breakwater and (4) providing parking for 74 additional cars on fill previously authorized by Permit No. 1-70 for landscaping and public access purposes. The major change in the revised application for Amendment 8 is the reduction of parking on previously authorized fill from 150 to 74 spaces and the addition of the public fishing walkway.

PROJECT DETAILS:

1. New Fill in the Bay. The applicant proposes to amend Permit No. 1-70 to increase the capacity of the Emeryville Marina from the 300 berths currently authorized to 500 berths. The 200 additional berths would require the placement of approximately 10 piles. The piles and floats would cover approximately 30,060 square feet of water surface area. (See Exhibit.) Applicant would provide power, water and telephone facilities on the floats.
2. Existing Fill in the Bay.
 - a. Parking. Applicant proposes to provide parking for 74 additional cars covering approximately 22,000 square feet (.50 acres) on fill authorized for "public plaza and landscaped walkways" by Permit No. 1-70.*

The applicant states that "after the original application was heard on September 19, 1974, the [applicant] worked with the State [Department of Navigation and Ocean Development] and the ECDC Design Review Board to develop a parking plan calling for only 74 spaces." The project drawing (attached) locates these additional spaces [across Powell Street from] the existing Tia Maria...." According to the

* See Staff Notes, paragraph 2.

applicant "the 47 space lot proposed for the area immediately north of the Tia Maria restaurant will be surfaced with reinforced turf, and shall be made available for parking only during those peak periods when the other parking lots are unable to handle the demand."

B. Other Construction. The applicant also proposes to construct (1) a small wood frame restroom near the pier entrance; (2) 200 shoreside wood lockers; (3) a fishing walkway on the existing timber breakwater, upon receipt of 50% matching funds from the State; and (4) extensions to the berths of existing power, water, telephone and sewage facilities.

3. Use. According to the applicant, "the 200 berths will be available for public rental." The fill would continue to be used for marina-related purposes, mostly parking incidental to a marina.

4. Public Access. According to the applicant, "the proposed construction will allow 200 boaters to gain access to the San Francisco Bay." Assuming the 50% grant can be obtained from the State, additional fishing access will be provided on the timber breakwater authorized by the original permit.

5. Schedule and Cost. Applicant states that "construction could begin during April, 1975, and completion could occur by August, 1975." Estimated cost of the project is \$500,000.

STAFF NOTES:

1. FOBO Procedure. Under Commission Regulation 10721, requests for material amendments to FOBO permits are processed just as though they were new permit applications.

2. Past Commission Action and Other Amendments.

a. Original Application. In the original application for Permit No. 1-70, heard by the Commission at its meeting of May 7, 1970, the applicant proposed to fill approximately 12.3 acres for (1) a 300-520 berth boat marina with an associated breakwater, and parking covering 5.3 acres, and (2) "marine-oriented restaurant, shops, and parking," covering 7.0 acres.

Subsequently at the Commission meeting of May 21, 1970, and after discussions with the staff, the applicant requested that the Commission postpone voting on the marina application until June 4, 1970, to provide sufficient time to work out possible modifications of the project. On June 2, 1970, the applicant amended its application by reducing the amount of fill from 12.3 acres to 7.8 acres including a reduction in the amount of berthing from the 300 to 520 range to 300 berths only.

b. Permit No. 1-70. On June 4, 1970, the Commission granted Permit No. 1-70 authorizing 7.8 acres of fill to be used as follows:

	Maximum
"Parking (with appropriate landscaping)	
200 spaces for berth lockers	1.7 acres
140 spaces for public and boat trailers	1.0 acres
"Public plaza and landscaped walkways	3.7 acres
"Streets and harbor master's office	1.2 acres
"Boat launching ramp	0.2 acres
	7.8 acres

The permit also authorized the construction of a 400-seat restaurant, the existing "Tia Maria," on a one-half acre site and marina-related facilities on another one-half acre site, both areas filled prior to the Commission's "bay" jurisdiction.

With regard to the marina facilities, Permit 1-70 allowed placement of moorings and floating docks for 300 small boat berths only, the construction of a solid timber breakwater to protect the harbor from surge and necessary dredging.

c. Subsequent Amendments. Since June 4, 1970, seven amendments to Permit No. 1-70 have been granted. With the exception of Amendments No. 3 and 5, these amendments have dealt with time extensions or clarifications of the permit language, and have been granted administratively as non-material amendments. Amendment No. 3, granted April 6, 1972, provided for the authorized breakwater to be extended from 720 to 870 feet, to "provide a 100-foot boat channel, and continue the timber breakwater an additional 400 feet...."

d. Effect of the Proposed Amendment. Under Commission Regulation 10132(b), the Commission retains "bay" jurisdiction over all areas, including the 7.8 acres authorized under Permit 1-70, to be filled. The effect of the requested amendment, if granted, would be to authorize (1) new fill for the requested 200 berths in the form of berths, ramps and pilings, and (2) conversion to parking uses for the 200 new berths of approximately .50 acre of the 3.7 acres of fill originally permitted for public plaza and landscape uses.

3. Relevant Parts of the McAteer-Petris Act and the San Francisco Bay Plan Include:

a. McAteer-Petris Act. Section 66605 of the Act, in part, provides that further fill should be authorized only "when public benefits from fill clearly exceed public detriment from the loss of the water areas and should be limited to water-oriented uses (such as...water-oriented recreation and public assembly...)...; and that the water area authorized to be filled should be the minimum necessary to achieve the purpose of the fill; that the nature, location and extent of any fill should be such that it will minimize harmful effects to the bay area, ...; that public health, safety and welfare require that fill be constructed in accordance with sound safety standards...; that fill should be authorized when the filling would, to the maximum extent feasible, establish a permanent shoreline...."

b. San Francisco Bay Plan.

(1) Bay Plan Map 4 (as amended November 18, 1971) indicates a proposed marina at this location.

(2) Bay Plan Policies on Recreation (page 23) provide, in part, that "(1) Sites that tend to fill up unusually rapidly with silt or mud,...should be avoided, ...(3)...Fill permitted for marina development should be the minimum necessary to provide support facilities (parking, service buildings, launching lanes, etc.).... No fill for marinas should be permitted to exceed 3/4:1 land/water ratio."

(3) Fills in Accord with Bay Plan (page 36, as amended). "A proposed project should be approved if the filling is the minimum necessary to achieve its purpose, and if it meets one of the following five conditions:...(1) The filling is in accord with the Bay Plan policies as to the Bay-related purposes for which fill may be needed (i.e.,...water-related recreation) and is shown on the Bay Plan maps as likely to be needed...."

4. Environmental Impact Report. The City of Emoryville, the lead agency and applicant with regard to this project, has determined that the project will not have a significant impact on the environment. A negative declaration to this effect was filed by the City on May 6, 1974.

5. Darien Harley Road.

At its meeting of September 17, 1974, the Design Review Board reviewed the original plan and objected to the loss of designated landscaped areas to additional automobile parking facilities. As a result of an additional review at the October 16, 1974, board meeting and a subsequent informal review of the present application, the board now believes that its former concerns have been largely alleviated by the present design.

APPENDIX B

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 Van Ness Avenue, San Francisco 94102 557 - 3686

RESOLUTION NO. 28

RELATING TO THE UNPERMITTED
FILL AT THE EMERYVILLE MARINA

WHEREAS, the Commission has been informed by its staff that the City of Emeryville has placed approximately 12.5 acres of solid fill at the Emeryville Marina, instead of the approximately 7.8 acres authorized under Permit No. 1-70, an excess of approximately 4.7 acres; and

WHEREAS, the Commission cannot and does not condone unpermitted fills; and

WHEREAS, the Commission has been advised by the staff and the Attorney General that before a court would likely order removal of any excess Emeryville fill, Emeryville would be allowed to revise its pending application for Amendment No. 8 to Permit No. 1-70 to attempt to obtain Commission authorization of any excess fill; and

WHEREAS, the revised application will be preceded by the preparation of an environmental impact report, which will analyze alternatives to removal of the fill;

NOW, THEREFORE, BE IT RESOLVED:

1. The Commission's position is to require unpermitted fills to be removed;
2. On the basis of the advice of the Attorney General and the staff, the Commission will take certain steps, including consideration of a revised application by Emeryville and participation in the preparation of an environmental impact report, to see what alternatives there are to removing any unpermitted fill;
3. The Commission's participation in the preparation of the EIR shall not be construed to mean it is favorably disposed toward an alternative to removing any excess fill;

4. The staff is therefore instructed to participate with the City of Emeryville in the preparation of an environmental impact report, at Emeryville's expense, regarding any unpermitted fill, such EIR to identify the impact on the Bay of removing any unpermitted fill and a range of alternatives to removal of any fill for consideration by the Commission.

The foregoing resolution was approved by unanimous vote on July 17, 1975.

WILLIAM D. EVERS
Chairman

THE

APPENDIX C

adán e. treganza anthropology museum



RECEIVED JUN - 7 1976
SAN FRANCISCO STATE UNIVERSITY
1600 HOLLOWAY AVENUE
SAN FRANCISCO, CALIFORNIA 94132

Donald Ballanti
EIP
319 Eleventh Street
San Francisco, CA 94103

June 3, 1976

Dear Mr. Ballanti,

Pursuant to our conversation of yesterday, I have checked the archaeological site files here at the museum for any indications of recorded archaeological sites in or around the Emeryville Marina Bayfill project. No sites are recorded for the immediate area; the nearest known site is what is left of the Emeryville Mound (Ala 310) under the old Paint company to the east of the freeway, and the three smaller sites within a quarter mile radius- Ala 309, 311, 312 and 313.

There is, however, always the possibility that archaeological remains did exist in the area of the fill. I am not aware of the depth of the fill at this point, but water level increase has been sufficient over the last 4500 years to have drowned all the post pleistocene village sites in the Bay Area. The U.S. Geological Survey in Menlo Park has just published a map showing the increase of the size of the Bay in the last 8000 years, and the area of the Marina was, at one time, dry land.

Sincerely,

Miley Paul Holman
Assistant Curator

C-1

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